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BY ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: WT Docket No. 02-55
Ex Parte Presentation

Dear Ms. Dortch:

On Tuesday, September 15, 2004, Lawrence R. Krevor and Geoff Stearn of Nextel Communications, Inc. ("Nextel") and the undersigned met with Federal Communications Commission ("Commission") staff regarding the above-referenced rulemaking on public safety communications in the 800 MHz band. Nextel met with Catherine Seidel, David Furth, Michael Wilhelm, Nicole McGinnis, Roberto Mussenden, Brian Marengo, and Herb Zeiler of the Wireless Telecommunications Bureau ("WTB"). Nextel also met separately with Paul Margie, Spectrum and International Legal Advisor to Commissioner Copps.

During these meetings, Nextel discussed the Commission's Report and Order ("R&O") in this proceeding. Nextel explained that it has carefully reviewed all aspects of the R&O to fully understand the numerous obligations it would impose on 800 MHz incumbents, including Nextel. The review focused on ascertaining whether the R&O's reconfiguration processes and procedures will enable completing 800 MHz reconfiguration within the time frames set forth by the Commission and with minimal disruption to all 800 MHz incumbents including, in particular, public safety communications licensees. Nextel's review also focused on identifying the impact the obligations set forth in the R&O would have on Nextel, its more than 14 million customers (including more than a million public safety personnel), and its shareholders.

Based on its careful review, Nextel has identified a number of areas in which clarification of the R&O will serve the public interest by assuring that 800 MHz band reconfiguration is achieved in accordance with the Commission's public policy objectives, as noted above. Nextel emphasized in both meetings the importance of operational flexibility for all incumbents during the retuning process and specifically for Nextel as it undertakes repeated retuning of its network on a region-by-region basis to facilitate reconfiguration and accommodate the retuning of other incumbents. For example, Nextel asked that the Commission confirm that Nextel may operate on all 800 MHz vacant or vacated channels below 817/862 MHz during the transition process (the channel block Nextel will vacate post-realignment); Nextel would, of course, vacate all channels below 817/862 MHz upon completing reconfiguration on a region-by-region basis.

Nextel also emphasized the importance of clarifying certain provisions in the R&O to assure that the Transition Administrator, Nextel and incumbent licensees have the discretion to adjust the reconfiguration process to take account of local or regional characteristics and thereby achieve band reconfiguration as efficiently as possible. In this regard, Nextel stressed the importance of direct negotiations between itself and incumbents resulting in a written retuning agreement containing all material terms, such as replacement channels, retuning costs and cost breakdowns, timing and other material considerations. Nextel also noted that the Commission should clarify that either party in these negotiations (Nextel or the incumbent licensee) may request that the Transition Administrator act as a negotiating intermediary. To further assure that all parties move expeditiously to complete reconfiguration, and therefore eliminate CMRS – public safety interference, Nextel recommended that the Commission clarify that if an incumbent fails to engage in retuning negotiations during the mandatory negotiating period, or simply rejects Nextel’s retuning offers without providing realistic counter-offers, such action would violate the “good faith” negotiating requirement set forth in the R&O for which the Commission may initiate enforcement action.

In both meetings, Nextel indicated that the following additional clarifications of the R&O would facilitate important retuning flexibility and efficiency:

- Incumbent B/ILT or SMR licensees (other than Nextel and Southern LINC) need not be relocated from channels 121-150. Such relocations are unnecessary to carry out the Commission’s new 800 MHz band configuration, would disrupt incumbents without countervailing public interest benefits, and would not result in any additional spectrum becoming available for public safety use.
- The Commission should make clear that the R&O’s 18-month band reconfiguration milestone contemplates clearing channels 1-120 in 20 NPSPAC regions of all incumbent licensees *other than* Nextel and Southern LINC. Nextel (and Southern LINC in its service area) would relocate from these channels as part of the channel swaps that will relocate the NPSPAC licensees to channels 1-120. Nextel anticipates that in meeting this milestone it will have commenced retuning negotiations with the NPSPAC licensees in each of the 20 regions.
- Incumbent non-ESMR EA licensees on channels 1-120 (other than Nextel and Southern LINC) will be retuned to comparable channels below 861.4 MHz; *i.e.*, they will receive comparable channel availability and interference protection from high-density cellular operators.
- ESMR incumbents (other than Nextel and Southern LINC) that elect to be relocated out of the “non-cellular” channel block will be retuned first to the 816-817/861-862 MHz block (starting at 861.9875 MHz and working downward); to the extent the 816-817/861-862 MHz block does not contain a sufficient number of replacement channels, an ESMR incumbent’s remaining channels will be retuned to 817/862 MHz and above on consecutive, contiguous channels.
- The Commission should clarify and confirm that Nextel will receive credit in the financial reconciliation process described in paragraphs 329-330 of the R&O for

the costs it incurs in adding base stations necessary to maintain its existing network capacity during the band reconfiguration transition process.

- The milestones and deadlines for completing band reconfiguration should begin to run on the start date of band reconfiguration in the first NPSPAC region (not the public notice date announcing this start date).

In each meeting, Nextel also expressed concern that the interference abatement measures adopted in the R&O incorporate interference protection standards specifically designed for a post-reconfiguration spectrum environment in which Nextel, other cellular, and public safety licensees would not be operating in interleaved or directly adjacent spectrum allocations. The technical interference solutions that band reconfiguration makes possible cannot be achieved in the current CMRS/public safety/private wireless interleaved spectrum environment, including the "sandwiching" of the public safety NPSPAC channel block between the cellular A band carriers and Nextel. Accordingly, Nextel urged the Commission to refine its interference abatement measures by providing for a transition period interference protection standard that takes into account the technical realities of interference mitigation and elimination in an interleaved spectrum environment. Upon completing reconfiguration in a NPSPAC region, the full interference abatement measures adopted in the R&O would automatically go into effect. Nextel will provide further details of a transition period standard in a subsequent *ex parte* filing.

Finally, Nextel noted that in a previous *ex parte* filing, it had provided evidence demonstrating that it holds nationwide licenses for the General Category and Lower 80 interleaved SMR channels, but that the R&O's calculation of Nextel's spectrum position appears to be inconsistent with that information. *See* Letter from Regina Keeney, Counsel to Nextel, to Marlene Dortch, FCC Secretary, WT Docket No. 02-55 (Aug. 30, 2004). At the WTB staff's request, Nextel agreed to provide an updated and more detailed analysis of the 800 MHz spectrum that it will contribute to effectuating 800 MHz band reconfiguration pursuant to the terms and conditions of the R&O. Nextel anticipates providing this updated data early next week.

Pursuant to section 1.1206(b)(2) of the Commission's rules, 47 C.F.R. § 1.1206(b)(2), this letter is being filed electronically for inclusion in the public record of the above-referenced proceeding.

Sincerely,

/s/ Regina M. Keeney
Regina M. Keeney

Counsel to Nextel Communications, Inc.

cc: Paul Margie Brian Marengo
Catherine Seidel Herb Zeiler
David Furth
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